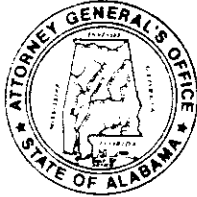


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DEC 10 1984

Honorable Charles S. Wagner
Assistant County Attorney
Jefferson County Commission
213 County Courthouse
Birmingham, AL 35263-0008

Income Withholding Act - Child
Support - Garnishment -
Employers, Employees - Act No.
84-445.

Act 84-445 supersedes Section
6-6-482 Code of Alabama 1975
insofar as 6-6-482 prohibits the
court ordered withholding of
child support payments from the
salaries of public employees.

Dear Mr. Wagner:

Your request for an opinion of the Attorney General dated
November 7, 1984 accompanied by a resolution of the Jefferson
County Commission is in part as follows:

Act 84-445, Regular Session, which
provides for the withholding by employers
of child support payments appears to apply
to local governmental entities in addition
to employers in the private sector. Act
84-445 does not expressly repeal §6-6-480,
et seq., Code of Ala. 1975, nor does it
expressly address the cases of Lasseter v.
Lasseter, 266 Ala. 459, 97 So.2d 555
(1957); and the more recent case of Knight
v. Knight, 409 So.2d 432 (Ala. Civ. App.
1972), which held §6-6-480, et seq., con-
stitutional. Specifically, §6-6-482 expressly
does not provide for the garnishment of
county employees for the purpose of collecting
child support. There is an obvious conflict

between the new child support act and the existing statutory Code provisions and existing case law as it relates to the garnishment of county employees.

"It would appear that if we follow the provisions of Act 84-445 and withhold delinquent child support payments from county employees' pay checks that they could assert that the County is not following the provisions of Code §6-6-480, et seq., and is violating the precedent set out in Lasseter and Knight, supra. On the other hand, if the County refuses to withhold child support payments pursuant to §6-6-480, et seq., we could be found in violation of Act 84-445.

"In view of this obvious conflict, your opinion is requested as to the applicability of Act 84-445, Regular Session, to county employees."

It is the opinion of this office that Act 84-445 is applicable to county employees. Act 84-445 now appears as Sections 30-3-60 through 30-3-71 Code of Alabama 1975 (1984 Supp.)

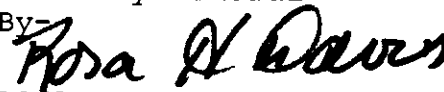
As you point out there clearly exists a conflict between Act 84-445 and prior law established by both legislation and appellate cases. However, since 84-445 is the latest expression of the legislature, it supersedes both prior case law and statute wherever any conflict exists. Thus under prevailing law, Act 84-445, local governmental entities must withhold child support payments from employees' paychecks where ordered to do so pursuant to Act 84-445. The amount so withheld must be paid over to the clerk of the court or the Department of Pensions and Security.

I trust that I have answered your question sufficiently. If this office can be of further assistance, please do not hesitate to call upon us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-


ROSA H. DAVIS
Assistant Attorney General